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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,527	01/03/2006	Frank Exeler	079794.0107	1503
31625 7590 02/22/2010 BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			EXAMINER ANWAR, MOHAMMAD S	
			ART UNIT 2463	PAPER NUMBER
			NOTIFICATION DATE 02/22/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/563,527

Applicant(s)

EXELER ET AL.

Examiner

MOHAMMAD ANWAR

Art Unit

2463

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 12/8/09 have been fully considered but they are not persuasive. Please see response below:

In regards to applicant remarks, Claim 12 also requires, in part, "performing frequency-slot separation on to-be-repeated data packets if the repeat time slot is detected, wherein the frequency-slot separation assigns the to-be-repeated data packets to a respective unique identifying frequency." The Examiner argues that D'Amico teaches this feature in col. 11, lines 29-53 in the context of a rescue channel used for retransmission data. However, a single rescue channel may be selected for communications with all the wireless devices, or more than one rescue channel may be selected to support communications with the devices. See col. 8, lines 61-66. Therefore, an allocation of a unique identifying frequency is not disclosed, and D'Amico does not teach or suggest the required claim limitation (see D'Amico's column 7 lines 48-52, carrier frequencies are assigned to devices)

In regards to applicant remarks, Claim 12 also recites, in part, "the frequency-slot separation is carried out within the duration of the repeat time slot." (emphasis added) The Examiner argues that col. 7, lines 29-53 of D'Amico teaches that the rescue channel is used for retransmission data; the Examiner does not even address the portion of the recited feature, "within the duration of the repeat time slot." No portion of D'Amico, cited by the Examiner or otherwise, discloses or makes obvious "performing frequency-slot separation on to-be-repeated data packets if the repeat time slot is

detectedwherein the frequency-slot separation is carried out within the duration of the repeat time slot" as required in claim (see column 8 lines 55-65, determining signal quality level, secondary or rescue channel is used for retransmitting).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-14, 17, 18 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by D'Amico et al. (U.S. Patent No. 6,741,554 B2).

For claim 12, D'Amico et al. disclose A method for transmitting packet data in a radio telecommunications system comprising: allocating a unique identifying frequency to each of a plurality of radio transmitters and radio receivers (see column 7 lines 21-33, carrier frequencies and time slots are assigned for wireless devices); detecting whether a repeat time slot is used (see column 12 lines 44-46, the processor monitors the retransmit or repeat time slot); performing frequency-slot separation on to-be-repeated data packets if the repeat time slot is detected, wherein the frequency-slot separation assigns the to-be-repeated data packets to a respective unique identifying frequency, and wherein the frequency-slot separation is carried out within the duration of the repeat

time slot (see column 11 lines 29-53, rescue channel is used for retransmission data); and performing frequency selection in at least one of the radio transmitters and receivers (see column 7 lines 48-59, frequency channel selection) wherein a repeated data packet is searched on the respective identifying frequency (see column 12 lines 44-46, device monitors know which channel the repeated data packet is sent).

For claim 13, D'Amico et al. disclose wherein the step of allocating the unique identifying frequency is performed once as part of an initialization of a radio coverage area of the radio telecommunication system, with the allocation being stored at least temporarily in the radio transmitters and radio receivers (see column 7 lines 48-54).

For claim 14, D'Amico et al. disclose the step of allocating the unique identifying frequency is carried out at the start of each transmission frame in accordance with a time-slot separation method (see column 7 lines 21-25).

For claim 17, D'Amico et al. disclose wherein the frequency-slot separation and selection steps are performed for each repeat time slot (see column 11 lines 29-53).

For claim 18, D'Amico et al. disclose wherein the repeat time slot is used due to the absence of an acknowledgement message from a receiving radio transmitter/radio receive (see column 11 lines 1-11).

For claim 21, D'Amico et al. disclose wherein radio telecommunications system operates in accordance with the Digital Enhanced Cordless Telecommunication (DECT) or Worldwide Digital Cordless Telecommunications (WDCT) standard (see column 3 lines 49-61).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amico et al. in view of Dent et al. (U.S. Patent No. 5,896,375).

For claim 15, D'Amico et al. disclose all the subject matter but fails to mention wherein an allocation of frequencies to the radio transmitters and radio receivers is implemented in such a way that each radio transmitter and radio receiver is allocated a sequence with a unique starting value. However, Dent et al. from a similar field of endeavor disclose wherein an allocation of frequencies to radio transmitters and radio receivers is implemented in such a way that each radio transmitter and radio receiver is allocated a sequence with a unique starting value (column 7 lines 42-67, column 8 lines 1-6). Thus, it would have been obvious to one ordinary skill in the art at the time invention was made to include Dent et al. allocation and sequencing scheme into D'Amico et al. packet transmission in a radio network. The method can be implemented in the hardware and software. The motivation of doing this is to avoid collision.

For claim 19, D'Amico et al. disclose all the subject matter but fails to mention wherein the allocation of frequencies is calculated within each of the radio transmitters and radio receivers. However, Dent et al. from a similar field of endeavor disclose wherein the allocation of frequencies is calculated within each of the radio transmitters and radio receivers (see column 6 lines 36-46). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Dent et al. frequency allocation scheme into D'Amico et al. retransmission scheme. The method can be implemented on a frequency generator. The motivation of doing this is to

maintain the same frequency between the corresponding slots (see column 6 lines 45-46).

For claim 20, D'Amico et al. disclose all the subject matter but fails to mention wherein calculation takes place on the basis of unique identifying information known to the radio telecommunication system. However, Dent et al. from a similar field of endeavor disclose wherein calculation takes place on the basis of unique identifying information known to the radio telecommunication system (see column 10 lines 20-31). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include Dent et al. identifying scheme into D'Amico et al. transmission scheme. The method can be implemented in the hardware and software. The motivation of doing this is to ensure that a collision does not take place.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amico et al. in view of King et al. (U.S. Patent No. 5,864,755).

For claim 22, D'Amico et al. disclose all the subject matter but fails to mention wherein an International Portable User Identity (IPUI) is used as identification information. However King et al. from a similar field of endeavor disclose wherein an International Portable User Identity (IPUI) is used as identification information (see column 2 lines 54-65). Thus, it would have been obvious to one ordinary skill in the art at the time of invention was made to include King et al. identification scheme into D'Amico et al. transmission scheme. The method can be implemented in the software program. The motivation of doing this is to for properly identify the mobile phones.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD ANWAR whose telephone number is (571)270-5641. The examiner can normally be reached on Monday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derrick W. Ferris can be reached on 571-272-3123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MOHAMMAD ANWAR
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